



**AGENDA**  
**Public Safety Committee Meeting**  
**Wednesday, April 6, 2016 at 6:00 PM**  
**City Council Chambers**  
**405 N. Paseo de Oñate, Española, NM 87532**

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*Please turn off  
cell phones or  
set to silent mode*  
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**A. CALL TO ORDER / ROLL CALL / DETERMINATION OF QUORUM**

**B. APPROVAL OF AGENDA**

**C. PUBLIC COMMENTS**

*PLEASE SIGN IN: Print first name and last including affiliation and/or address if applicable. Please keep comments to a three (3) minute time frame. Public comment log sheet is located upon southeast entry of the council chambers.*

**D. APPROVAL OF PUBLIC SAFETY COMMITTEE MEETING MINUTES**

1. February 3, 2016

**E. MATTERS FROM THE CHAIR**

2. Discussion of FY13 Audit Finding(s)

**F. DISCUSSION/ACTION ITEMS**

3. Less Lethal Weapons Policy Proposed Updates – Chief Gallegos (Action Item)
4. Discussion and Review of Current Towing Policy – Chair Michelle R. Martinez (Action Item)
5. Deputy Chief Position – Chief Gallegos (Discussion Only)
6. Drug Walk on April 9, 2016 – Chief Gallegos (Discussion Only)
7. Good Friday Summary – Chief Gallegos (Discussion Only)

**G. POLICE DEPARTMENT - Chief Gallegos or Designee**

8. Statistics Reports for January & February 2016 (Police, Fire, Detention, PSA, Animal Control)

**H. FIRE DEPARTMENT - Fire Deputy Chief Tafoya or Designee**

9. Statistics Reports for January & February 2016

**I. MUNICIPAL COURT - Judge Stephen Salazar**

10. Statistics Reports for January & February 2016

**J. NEXT MEETING – (First Wednesday of month) Tentatively May 4, 2016 at 6:00 PM**

**K. ADJOURNMENT**

The Governing Body may revise the order of the agenda items considered at this Open Meeting. If you are an individual with a disability who is in need of an amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the City Clerk at 747-6019 at least three days prior to the meeting.

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## PUBLIC SAFETY COMMITTEE MEETING

February 3, 2016 at 6:00 PM

Plaza de Española Convento

706 East Bond Street, Española, NM 87532

### A. Call to Order / Roll Call / Determination of Quorum

The meeting was called to order at 6:01 PM by Committee Chair Cory Lewis.  
The following were in attendance:

Chair: Councilor Cory Lewis

Members: Councilor Dennis Tim Salazar  
Councilor Peggy Sue Martinez

City Manager: Kelly Duran: Residing (Absent)

City Clerk: Anna Squires: Residing

Minutes prepared by: Victoria K. Gallegos, Executive Secretary, Española Police Department

### B. Approval of Agenda

Agenda as Presented:

---Begin---

A. Call to Order / Roll Call / Determination of Quorum

B. Approval of Agenda

C. Public Comments

*PLEASE SIGN IN: Print first name and last including affiliation and/or address if applicable.  
Please keep comments to a five (5) minute time frame. Public comment log sheet is located at  
the meeting facility.*

D. Councilor Comments

E. Approval of Public Safety Committee Meeting Minutes

1. December 2, 2015

F. Discussion / Action Items

2. Update on Panhandling Citations – Sgt. Daniel Espinoza or Designee (Discussion Item)

3. Update on Neighborhood Watch Program (Discussion Item)

G. Police Department - Chief Gallegos or Designee

4. Statistics Reports

a. Police, Animal Control and PSA Statistics Monthly Reports

b. Officer of the Month Monthly Report

c. Criminal Investigations Division Cases Monthly Report

d. Burglaries Monthly Report

e. Detention Billing and Intake Monthly Report

f. Criminal Complaint Delivery Receipt Monthly Log

g. Citation Delivery Receipt Monthly Log

h. 2015 Yearly Report of Officer Statistics

H. Fire Department – Fire Deputy Chief Tafoya or Designee

5. Statistics Reports

a. Major Incident Types for Date Range Monthly Report

b. Detailed Breakdown by Incident Type Monthly Report

I. Municipal Court - Judge Stephen Salazar

6. Statistics Reports

a. Citation Violations by Officer Monthly Report

b. Citation Violations by Violation Type Monthly Report

The Governing Body may revise the order of the agenda items considered at this Open Meeting. If you are an individual with a disability who is in need of an amplifier, qualified sign language interpreter or any other form of an auxiliary aid or service to attend or participate in the hearing or meeting, please contact the City Clerk at (505) 747-6019 at least three (3) days prior to the meeting.

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*J. Next Meeting – (First Wednesday of month) Tentatively March 2, 2016 at 6:00 p.m.*

*K. Adjournment*

*---End---*

Public Safety Committee Chair (PSCC) Cory Lewis called for a motion to approve the agenda and/or otherwise. Motion was made to approve the agenda by Public Safety Committee Member (PSCM) Peggy Sue Martinez. Second by PSCM Dennis Tim Salazar. Motion carried 3-0.

**C. Public Comments**

There were no public comments.

- D. Councilor Comments** – PSCM Martinez addressed the committee by stating her concerns about speeding traffic in the Ranchitos area. She asked if the city could look into getting a traffic light installed there and the possibility that a unit could be parked there a couple of times per week.

**E. Approval of Public Safety Committee Meeting Minutes**

**1. December 2, 2015**

Motion to approve the December 2, 2015 meeting minutes made by PSCM Peggy Sue Martinez. Second by PSCM Dennis Tim Salazar. Motion carried.

**F. Discussion / Action Items**

- 2. Update on Panhandling Citations – Sgt. Daniel Espinoza or Designee (Discussion Item)** Chief Gallegos yielded the floor to Sgt. Daniel Espinoza. Sgt. Espinoza stated that officers are continuing to monitor parking lots and there have been no complaints received. Chairman Lewis stated aggressive panhandlers are a problem and the situation continues to deter local shoppers which affects gross receipts taxes.
- 3. Update on Neighborhood Watch Program – (Discussion Item) –** Sgt. Daniel Espinoza stated that Bruce Richardson of Chimayo will be meeting with the chief and is motivated to start a Facebook page for the neighborhood watch program. Chief Gallegos stated Mr. Richardson will be working closely with Detective George Martinez. PSCM Martinez said she would like to see this initiative grow since it may assist in application of neighborhood policing grants that may become available in the future from the Department of Justice.

**G. Police Department - Chief Gallegos or Designee**

**4. Statistics Reports (a-h)**

Statistics provided for November 2015 were as follows: Calls for Service: 1,315; Reports: 224; Accident Investigations: 54; Arrests: 96; DWI: 4; Panhandling: 0; Escorts: 12; Citations: 166; CID Cases: 10; and Reports Pending: 50. Burglaries: 9, of which 6 were dwelling, 1 aggravated burglary, 1 commercial and 1 breaking & entering. There were 1,696 calls handled and 170 offense/incident reports.

Statistics provided for December 2015 were as follows: Calls for Service: 1,513; Reports: 264; Accident Investigations: 61; Arrests: 102; DWI: 8; Panhandling: 0;

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Escorts: 6; Citations: 301; CID Cases: 1; and Reports Pending: 17. Burglaries: 19, of which 8 were dwelling, 1 aggravated burglary, 2 commercial burglaries and 8 vehicle burglaries. There were 2,007 calls handled and 203 offense/incident reports.

PSCM Martinez asked why one Public Safety Aide consistently has lower citation numbers or no citations. Chief Gallegos stated the PSA has been on FMLA.

Sgt. Espinoza explained that the single case indicated on the Criminal Investigations case handled statistics report is not accurate, being that the detectives were failing to request case numbers on follow-ups and interviews. PSCC Lewis asked if detectives also work patrol and if they can write panhandling citations. Chief Gallegos said yes, they can. PSCC Lewis asked what hours the detectives work and Sgt. Espinoza stated Monday through Friday, from 08:00 a.m. to 5:00 p.m. with occasional approved overtime. PSCC Lewis stated he could not understand how two CID detectives could only have one case for the entire month.

PSCM Martinez asked if background investigations are conducted for city employment applicants and for police department applicants. She asked if an agenda item highlighting open job positions within DPS could be added, to include closing dates, applicants' names, and name of person hired for said position(s).

PSCM Martinez asked about the status of the "Care of Prisoners" budget line item. Victoria Gallegos said the line item is fine. PSCC Lewis requested a budget report for the Care of Prisoners line item be emailed to all councilors. Ms. Gallegos stated she would send the ledger to everyone.

PSCM Martinez recognized Officers Greg Esparza and Anthony Armijo for their continued efforts and consistent high citation statistics.

**H. Fire Department – Fire Deputy Chief Tafoya or Designee**  
**5. Statistics Reports (a-b)**

Lt. Ron Padilla attended the meeting on behalf of Deputy Chief Tafoya. Lt. Padilla stated the ladder truck has been repaired and is back in Española. The main fire truck was sent to Siddons-Martin in Albuquerque for repair. A seat belt light will not turn off in one of the other trucks and will be serviced soon.

Packet material for November 2015 as follows: Of the 161 calls, 2 were fires, 134 were rescue and emergency medical service, 3 hazardous condition calls, 2 service calls, 12 good intent calls and 8 false alarm/false calls.

Packet material for December 2015 as follows: Of the 155 calls, 2 were fires, 121 were rescue and emergency medical service, 5 hazardous condition calls, 8 service calls, 8 good intent calls and 11 false alarm/false calls.

Lt. Padilla expressed his thanks for the mutual aid provided by county and volunteer fire departments on recent fire calls handled. Lt. Padilla said the department is

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continuing with staff trainings. Also, they are seeking grant funding to replace the ladder truck.

PSCC Lewis requested an update from Chief Gallegos on the building maintenance issues at the main fire station that were discussed at a prior meeting. This included leaky window sills and cement paint.

I. **Municipal Court - Judge Stephen Salazar**

6. **Statistics Reports (a-b)** Judge Salazar did not attend the meeting, but provided statistics reports for the packet.

PSCM Martinez stated she never received an update on the dollar amount of the fines and fees collected from the Municipal Court as requested at the last meeting.

- J. **Next Meeting** – Date to be determined due to city elections the first week of March 2016.

- K. **Adjournment** – Motion to adjourn made by PSCM Peggy Sue Martinez. Second by PSCM Dennis Tim Salazar. Meeting adjourned at 6:59 p.m.

APPROVED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Cory J. Lewis, Chair

ATTEST:

\_\_\_\_\_  
Anna Squires, City Clerk

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City of Espanola  
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**FS 2012-005 Noncompliance with Related Parties Transactions (Other Matter) (Repeat/Modified)**

*Condition:* During our test work of related parties, we noted that the City was not in compliance with related parties' transactions as follows:

- In 1 out of 2 instances, no quotes were obtained. The dollar amount associated with this transaction totaled 1,797.67.
- In 1 out of 2 instances, a voucher was used instead of a P.O. for an insurance claim. The dollar amount associated with this transaction totaled \$3,048.15.

*Criteria:* Section 10-16-3 NMSA 1978 states that "Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct. At all times, reasonable efforts shall be made to avoid undue influence and abuse of office of public services".

*Effect:* Having ambiguous or unclear procurement and conflict of interest transactions heightens the risk of noncompliance with State Statutes and the risk of management override and abuse.

*Cause:* The City has not reviewed their policies to ensure procurement policies are clearly defined, understandable, and do not conflict with other policies. Also, the City has not updated their procurement and conflict of interest policies to ensure compliance and conformity with State Statutes.

*Auditors' Recommendations:* The City should update their policies to coincide with State Statutes and the Governmental Conduct Act, and ensure that policies are clearly defined, understandable, and complete.

*Agency's Response:* Management of the City will work to update policies that are ambiguous or conflicting to make them more clear and understandable for City employees and management to follow.

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**FS 2012-004 Insufficient Internal Controls related to Credit Cards (Other Matter) (Repeat/Modified)**

*Condition:* During our testwork of fuel cards, we noted the following:

- In 2 out of 10 fuel logs tested, adequate supporting documentation including receipts could not be provided. The dollar amount associated with these charges totaled \$157.26
- In 2 out of 10 fuel logs tested, there were questionable charges including 2 vehicles being reported on 1 fuel log and 2 charges on the same day for the same vehicle. The dollar amounts associated with these charges totaled \$84.64
- In 6 out of 10 fuel logs tested, there was no indication of the fuel log being reviewed. The dollar amounts associated with the fuel logs totaled \$100,456.22.

*Criteria:* New Mexico Procurement Code 13-1-1 to 13-1-99, NMSA 1978, states that payments must be supported by valid receipts and that payment may only be made for valid charges.

*Effect:* The City may be paying for unallowable expenses. Inconsistent monitoring of compliance with requirements could result in abuse or fraud.

*Cause:* Employees are not turning in fuel receipts, logs are being used improperly and the City is paying credit card charges without obtaining the corresponding receipts for charges.

*Auditors' Recommendation:* We recommend that the City require credit card holders to turn in receipts as charges are incurred. In the case of an occasional lost receipt, have the credit card holder sign and date an explanation as to the amount of the charge as well as the purpose of the charge.

*Agency's Response:* The City has already instituted a policy whereby the fuel card receipts (and or affidavits) are to be submitted monthly to the finance department for review and verification against the monthly invoices. Currently the City is looking to revise the vehicle logs to include a calculation of miles per gallon to better track vehicle maintenance issues.

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**Section III – Financial Statement Findings and Responses**

**FS 2000-003 Budgetary Noncompliance (Other Matter) (Repeat/Modified)**

*Condition:* In violation of the New Mexico State statute the following funds exceeded approved budgetary authority for the year ended June 30, 2013:

	Approved Budget	Actual Expenditures	Amount Exceeded
Recreation	\$ -	\$ 651	\$ 651
Operation Buckle Down	3,416	5,116	1,700
COPS in Schools Grant	35,360	57,146	21,786
DWI Program Enforcement	-	91	91
Roads and Streets	298,000	378,440	80,440
Plaza Development	60,000	69,583	9,583
Capital Projects Grants	-	41,971	41,971
Infrastructure Projects	52,694	1,135,510	1,082,816
Water and Waste Water	3,807,831	4,660,456	852,625
Solid waste fund	729,000	745,383	16,383

*Criteria:* A budget is a proposed plan of financial operations for a given period of time. The annual budget authorizes and provides the basis for control of financial operations during the fiscal year. NMSA 1978 Section 6-6-6. Approved budgets; claims or warrants in excess of budget; liability "When any budget for a local public body has been approved and received by a local public body, it is binding upon all officials and governing authorities, and no governing authority or official shall allow or approve claims in excess thereof, and no official shall pay any check or warrant in excess thereof, and the allowances or claims or checks or warrants so allowed or paid shall be a liability against the officials so allowing or paying those claims or checks or warrants, and recovery for the excess amounts so allowed or paid may be had against the bondsmen of those officials."

*Cause:* The City did not adequately monitor its budget in these areas. Expenditures were approved in excess of available budget or budget adjustments were not approved and journal entries were not made to cover the expenditure approved.

*Effect:* The City is spending funds that were not authorized by the City Council.

*Auditors' Recommendation:* We recommend that expenditures not be approved which would cause the budget to be exceeded. We also recommend that timely budget adjustments be prepared when necessary.

*Agency's Response:* The City of Espanola agrees that amounts were posted to the accounts in excess of the budget, however, these excess amounts were not billed to any reimbursable grant but reflect an accounting error that should have been corrected prior to audit. The City's Finance Department is improving on the budget monitoring and correction of errors in a more timely manner.



**73.1****TITLE: LESS LETHAL WEAPONS****CODIFIED: 73.1****EFFECTIVE: 09/01/09****PAGES: 5****PURPOSE**

To establish procedures for the availability and use of the expandable baton, OC Spray, **M-26 X26 and X26P** Taser.

Less Lethal weapons are not intended to be an alternative to the use of deadly force when such use is clearly authorized and necessary.

Less Lethal options for the Española Police Department may vary as to their availability. The least intrusive level of force should be deployed based upon the facts/circumstances for each individual incident.

**DISCUSSION**

Discussed in this directive will be the type of less than lethal weapons that are authorized by the Española Police Department.

**POLICY**

Officers, **Transport Officers and Public Safety Aides** of the Española Police Department shall use physical force only when necessary for legitimate law enforcement purposes and only to the extent necessary to accomplish those purposes. To such an end, the use of the expandable baton, Oleoresin Capsicum (OC) spray, **M-26 X26 and X26P** Taser, are authorized to provide officers, **transport officers and public safety aides** with an alternative to the use of deadly force, when appropriate.

**PROCEDURE  
BATON**

**73.1.01** The Department issued expandable baton is the only authorized baton for use by sworn departmental personnel.

- A. The expandable baton shall be issued and carried only by officers who have completed the Department's baton training.
- B. Uniformed Officers assigned regular field duties will carry the baton as part of required equipment.
- C. Plain clothes and administrative officers will be required to have the baton readily accessible, in their police vehicles while on duty.
- D. Officers are responsible for ensuring the baton is in good condition. Broken or otherwise unserviceable batons will be replaced as soon as a defect is noted.
- E. The baton is to be used as a defensive weapon only. Its use shall be governed by departmental training criteria and the use of force policy.
- F. Use of the baton as an offensive weapon, or intentional misuse of the baton, may subject the violator to disciplinary action.
- G. The baton shall remain in the holster until such time as the officer perceives an apparent threat.

**BATON TRAINING****73.1.02 Initial Certification**

- A. All officers shall satisfactorily complete a 10-hour certification course on the Use of Force, use and application of the baton, prior to receiving authorization to carry the weapon.

**73.1.03 Annual Certification**

- A. All officers shall attend a four-hour re-certification course annually on the use and application of the baton.

### Oleoresin Capsicum (OC) Spray

#### 73.1.04 Initial Certification

- A. All officers, **transport officers and public safety aides** shall satisfactorily complete a 4 hour certification course on the use of force, use and application of OC Spray prior to receiving authorization to carry OC Spray.

#### 74.1.05 Bi-annual Certification

- A. All officers, **transport officers and public safety aides** shall receive refresher training every two years on the use and application of OC Spray.

**73.1.06** OC Spray shall be issued to and used only by officers, **transport officers and public safety aides** who have completed the Department's OC Training.

**73.1.07** OC Spray is not intended to be an alternative to the use of deadly force when such use is clearly authorized and necessary.

**73.1.08** When all reasonable efforts have failed to calm a person who is acting violently and presenting a definite danger to himself or others, a minimum stream may be fired at the person in accordance with the manufacturers recommendations and departmental training received.

**73.1.09** The OC Spray may be used to terminate violent behavior, or the threat of violent behavior, or to aid in the apprehension of a person who resists custody, which could result in injury to the officer, **transport officers and public safety aides**, other persons, or the violent individual.

**73.1.10** OC Spray should not be discharged in the immediate vicinity of an infant, unless the infant's life is in danger, since their respiratory system is developing and especially sensitive to irritating vapors.

**73.1.11** OC Spray will normally be discharged from a distance of at least six (6) feet. Bursts any at any closer than three (3) feet may cause eye damage and should only be used in extreme conditions where serious bodily harm to the officer or other persons may be imminent.

**73.1.12** Only under conditions which represent an extreme hazard (Potential threat of serious injury or death to the officer or others) will the OC Spray be used in the following manner:

- A. Prolonged discharge at any effective distance into the face of a person already incapacitated or not responding to normal application of the chemical agent formulation who is continuing an assault which may result in serious injury.
- B. Discharge of large quantities of the chemical irritant in a confined space such as a small room or closed automobile.
- C. Discharge OC Spray in close proximity of an infant.

### TASER

**73.1.13** It is the policy of the Española Police Department to utilize the Taser on individuals who:

- A. An officer has probable cause to believe have committed a violent felony and are attempting to avoid apprehension.
- B. Armed with a deadly weapon and/or has the ability to inflict bodily harm on another.
- C. Are fleeing to avoid being served with an arrest warrant, and pose a threat of injury to the officer other persons, or the individual.
- D. An officer has probable cause to believe have committed a crime and use is necessary to effect arrest and the individual is physically resisting arrest.
- E. Need to be restrained for their safety.
- F. Are attempting to actively resist or batter an officer.
- G. Are **displaying** physical threats to the safety of another.
- H. **Acting disorderly and not cooperating with officers, transport officers and public safety**



aides during the booking process when the threat of immediate battery is viable.

- I. Physically combative while attempting to arrest, detain, transport or hold for incarceration.

**73.1.14 Taser users shall adhere to all warnings as outlined in Taser Certification.**

**73.1.15** In order to determine which technique or weapon will reasonably de-escalate the incident and bring it under control safely, officers, transport officers and public safety aides should assess the situations where force is warranted. Officers, transport officers and public safety aides shall use only that force which is reasonably necessary to effect lawful objectives.

**73.1.16** Officers, transport officers and public safety aides will be trained and familiarized with the Reactive Control Model prior to use of a Taser.

### TASER TRAINING

#### **73.1.17 Initial Certification**

- A. All officers, transport officers and public safety aides shall satisfactorily complete a ~~10-hour~~ the department certification course on the use and application of the Taser, prior to receiving authorization to carry the weapon. Training will be a minimum of six (6) hours with a voluntary exposure for a five (5) second cycle of the Taser.

#### **73.1.18 Annual Certification**

1. All officers shall attend a four-hour re-certification course annually on the use and application of the Taser.

### DOCUMENTATION

**73.1.19** It shall be the Policy of the ~~Santa Fe~~ Española Police Department to document any use of the Taser:

#### **A. On duty Field Deployment:**

1. Española Police Department Offense Incident Report
2. Española Police Department Use of Force report
3. Taser User Report
4. Photograph
5. If a Taser cartridge is deployed, it shall be submitted as evidence as outlined in Taser Training. Probes will be disposed of properly in a marked Biohazard container.
6. Officer, transport officers or public safety aides will update User Log

#### **B. Taser Function Test(s):**

Officers, transport officers and public safety aides will update copies of logs forwarded to the office of chief of police on the first Monday of each month.

#### **C. Training:**

1. It shall be the responsibility of the Taser Instructor to document the following information when conducting training:
  - a. Serial number of Taser(s) utilized
  - b. All Taser Cartridges Deployed
  - c. Date and Times of Training
  - d. Personnel who attended

**73.1.20** Copies of all Taser uses will be forwarded to the Office of the Chief and/or his designee for tracking and review.

### DEFINITIONS

#### **73.1.21 TASER**

- A. Less-lethal Conducted Energy Weapons that use propelled wires to conduct energy to a remote

target, thereby controlling and affecting the central nervous system of the body.

Conducted Energy Weapons are effective because they affect the central nervous system of the human body. The human nervous system communicates by means of simple electrical impulses. The Taser sends out short duration, high voltage electrical waves or Taser-Waves or T-Waves that overpower the normal electrical signals within the nerve fibers.

- B. Electro-Muscular Disruption (EMD)-EMD** systems override the central nervous system and take direct control of the skeletal muscles. The Taser is an EMD system and affects the sensory and motor nervous system. The EMD systems directly cause the muscles to contract. Hence, even someone whose sensory nervous system is impaired by drugs or alcohol will have involuntary muscle contractions.

The Taser utilizes a 26-watt system with an electrical output of 50,000 volts.

**37/40 MM PROJECTILE BATON AND/OR 12 GAUGE BEAN BAG**

**E. 73.1.22 VACANT**

**73.1.23 VACANT**

**73.1.24 VACANT**

**37/40 MM Projectile Launcher and/or 12 ga. Bean Bag Round Training**

**73.1.25 Initial Certification**

- A. VACANT**
- B. VACANT**
- C. VACANT**

**MEDICAL TREATMENT**

**73.1.26 BATON**

- A.** Medical treatment procedures as outlined in the Use of Force directive shall be followed.
- B.** First aid shall be rendered by paramedics and/or trained medical personnel.
- C.** After the subject is treated, the officer will obtain a signed medical release form from the attending physician for Detention Center personnel.
- D.** Failure to provide appropriate care after exposing a person to a baton strike is considered a violation of this policy.
- E.** After-action photographs shall be taken of any individuals subjected to this measure.

**73.1.27 OC SPRAY**

- A.** Medical treatment procedures as outlined in the Use of Force directive shall be followed.
- B.** The contaminated area will be flushed with water.
  - 1.** The time between OC exposure and wash-up should be as soon as possible.
- C.** No officer shall apply, nor permit another person to apply oil or grease medications such as butter, cold cream, lanolin, Vaseline, lotion or salves which could trap the irritant to the skin and thereby cause blistering unless authorized by a physician.
- D.** Exposed areas should not be bandaged; the areas should be exposed to fresh air for evaporation.
- E.** Upon exposing a person to the OC Spray the officer, **transport officers and public safety aides** will request Emergency Medical Technicians or Paramedics to the scene. The person exposed will be transported to **St. Vincent the** Hospital Emergency Room. The paramedics will assess the subject on scene and make the



determination to transport by ambulance or by the officer. Prior to arriving at the Emergency Room, the officer, **transport officers and public safety aides** will request dispatch notify hospital staff that a person contaminated with OC Spray is being transported.

- F. After the subject is treated, the officer, **transport officers or public safety aides** will obtain a signed medical release form from the attending physician for Detention Center personnel.
- G. Upon arrival at the Detention Center the officer, **transport officers or public safety aides** will notify jail staff that the subject and his/her clothing has been contaminated with OC Spray.
- H. Failure to provide appropriate care after exposing a person to OC Spray is considered a violation of this policy.
- I. After-action photographs shall be taken of any individuals subjected to this measure.

#### 73.1.28 TASER

- A. Medical treatment procedures as outlined in the Use of Force directive shall be followed.
- B. The affected area will be:
  - 1. Checked by User as soon as safely possible and first aid rendered to the users level of training.
  - 2. If Probes are discharged and penetrate the skin the User may remove the probes as outlined in Department training.
    - a. Photographs should be taken before and after removal.

~~b. Officers shall have the individual transported to a medical facility (St. Vincent's Hospital) for probe removal as outlined in the Taser certification.~~

- C. First aid shall be rendered by paramedics and/or trained medical personnel.

- D. Upon exposing an individual to the Taser in the Taser/stun mode the officer will request Emergency Medical Technicians or Paramedics to the scene. **The paramedics/EMT's will assess the subject on scene, remove the probes and make the determination to transport by ambulance or by the officer, transport officer or public safety aide, if required.** ~~The person exposed will be transported to St. Vincent Hospital Emergency Room. The paramedics will assess the subject on scene and make the determination to transport by ambulance or by the officer. Prior to arriving at the Emergency Room, the officer will request dispatch to notify hospital staff that a person who has received a Taser/stun cycle is being transported.~~

- E. After the subject is treated, the officer, **transport officer, or public safety aide** will obtain a signed medical release form from the attending physician for Detention Center personnel.
- F. Failure to provide appropriate care after exposing a person to the Taser is considered a violation of this policy.

- G. After-action photographs shall be taken of any individuals subjected to this measure.

#### 73.1.29 37/40 mm Projectile and/or 12 Gauge Bean Bag

- A. Medical treatment procedures as outlined in the Use of Force directive shall be followed.
- B. The affected area will be:
  - 1. Checked by User as soon as safely possible and first aid rendered to the **user's** level of training.
    - a. Photographs should be taken as soon as possible.
- C. First aid shall be rendered by paramedics and/or trained medical personnel.

- D. Upon exposing an individual, the officer, **transport officer or public safety aide** will request Emergency Medical Technicians or

Paramedics to the scene. The person exposed may be transported to the Hospital Emergency Room. The paramedics will assess the subject on scene and make the determination to transport by ambulance or by the officer, **transport officer, or public safety aide**.

- E. After the subject is treated, the officer, **transport officer or public safety aide** will obtain a signed medical release form from the attending physician for Detention Center personnel.
- F. Failure to provide appropriate care after exposing a person to the projectile baton or beanbag is considered a violation of this policy.

### REPORTING

**73.1.30** Officers, **transport officers or public safety aides** will photograph the person's affected area as soon as possible, under normal circumstances whenever a less lethal weapon is deployed.

**73.1.31** A use-of-force form shall be completed and submitted to the Office of the Chief of Police any time the expandable baton, OC Spray **or** Taser is utilized as a weapon. Use-of-force forms will be completed and submitted in accordance with the use of force policy.

**73.1.32** All additional deployment forms will be completed and submitted to the Office of the Chief of Police and/or to their appropriate tracking unit, I.E. Offense Incident, Criminal Complaints/Probable Cause Statements, and Taser Use Report.

**73.1.33** Video recordings and/or photographs shall be submitted to the property section as evidence.

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Drafted (rgb) 07/09

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**TITLE: TOWING AND WRECKER SERVICES****CODIFIED:** 50.1**EFFECTIVE:** 09/01/09**PAGES:** 6**PURPOSE**

The purpose of this directive is to establish guidelines regarding the towing of vehicles for various legitimate purposes, such as vehicles in violation of provisions regulating stopping, standing or parking, stolen or abandoned vehicles, vehicles of arrested persons, and inoperable vehicles.

**DISCUSSION**

A variety of circumstances arise that require a vehicle to be towed by police personnel. In order to insure procedural and legal requirements are met, a uniform method is required. This procedure will outline the authority and process in meeting this need.

**POLICY AND PROCEDURE**

It is the policy of the Espanola Department to authorize the towing of vehicles when necessary as a matter of public safety, to protect property, to preserve evidence, and to remove abandoned vehicles from city streets and property.

**50.1.01 A WRITTEN REPORT WILL BE SUBMITTED WHENEVER:**

- A. A vehicle is towed or removed at the direction of an officer and shall reflect the time, date, location, requesting officer, reason for removal or tow, the towing service or wrecker company, the towed location of the vehicle and any attempts made to contact the registered owner when the situation deems it necessary.
- B. Exigent circumstances may exist which would prohibit notifying the owner(s) of a vehicle as to the location of their vehicle. Those incidents will be handled on a case by case basis. In those situations, the assigned detective/officer and Communications personnel will be notified so they may contact, or attempt to contact, the owner and make the necessary notification.

C. Prior to removal of any vehicle, attempts will be made to notify the owner, unless it is causing a traffic or safety hazard. If the owner is notified, a thirty (30) minute grace period will be given to accommodate the owner to have the vehicle removed. If for any reasons the owner of the vehicle takes longer than the thirty (30) minute grace period to remove the vehicle, and the vehicle is impounded, a vehicle impound form will be initiated by the officer and signed by the wrecker driver. Once the vehicle is impounded, the owner will be contacted immediately or as soon as reasonably possible, advising him of the vehicle's location. If the owner cannot be located a registered letter will be sent to the listed owner on the date of impoundment. A complete report will be initiated and turned into the on-duty supervisor.

- D. If the owner cannot be located, and the vehicle is not causing a safety hazard, a registered letter will be sent (within 48 hours) to the last known owner of the vehicle as verified by a registration check through the New Mexico Department of Motor Vehicles. After waiting a thirty- (30) day period if the vehicle has not been removed, it will then be deemed abandoned and will then be towed (per N.M. State Statute 66-1-4.1, A, 1,2,3, and 4). Once the vehicle is impounded, another registered letter will be sent notifying the owner of the whereabouts of his/her vehicle. Every attempt to contact the owner prior to removal will be made. Once the owner is located, this information will be given to the owner and a supplemental report will be submitted. The registration inquiry and a copy of the registered letter will be retained and become part of the official police report.

**50.1.02 VEHICLES WILL BE TOWED WHEN:**

- A. They obstruct traffic and that based on exigent safety concerns must be removed to protect the public from harm.
  1. In these situations, the officer/PSA will check with a commander prior to towing the vehicle. Vehicles shall be impounded if no other means of removing the hazard are available.

- B. The vehicle has been stolen, abandoned, vandalized, involved in an accident to the extent that it is inoperable and/or it is in violation of traffic codes whereby it would be unsafe to allow the vehicle to be driven or operated.
- C. The vehicle is in the department's custody and is needed for evidence processing due to a hit-and-run accident or other criminal investigations.
- D. The driver has been incapacitated, hospitalized, arrested, taken into custody, or when the vehicle cannot be released to a responsible party.
- E. When circumstances exist where the vehicle was used in the commission of a felony and forfeiture proceedings will be initiated on said vehicle.
- F. Any time a vehicle is towed/impounded, the officer handling the incident shall complete an offense/incident report, along with the impound sheet, so there will be a record of the impoundment.

#### 50.1.03 PROCEDURES FOR TOWING VEHICLES

- A. Requests for wrecker services will be restricted to the wrecker on call in accordance with the wrecker rotation schedule.
  - 1. This does not preclude owners or operators of vehicles from requesting a specific wrecker company or tow truck operator. Owners or operators will be verbally informed of their right to request a specific wrecker company or tow truck operator.
  - 2. This also applies to members of automobile clubs. Officers will be required to obtain membership information for wrecker requests.
- B. Under no circumstances will any officer or employee recommend or suggest that the owner or operator of a vehicle being towed utilize any specific wrecker company or tow truck service.
- C. No member or employee of the Espanola Police Department will, by virtue of his/her employment or service in an official capacity, accept any consideration or gratuity from any wrecker company, tow truck service or its employees.
- D. Officers, prior to authorizing the towing of a vehicle, will contact their respective on-duty commanding officer or supervisor and brief him/her as to the circumstances requiring the towing of the vehicle. The only exceptions to this rule are:
  - 1. When the vehicle is being impounded due to an accident, or arrest.
  - 2. At the request of a vehicle owner.
- E. Upon impoundment of a vehicle, the officer shall complete the following, ensuring that all pertinent information is included in the report (including date, time, location, requesting officer, reason for impoundment, name of the wrecker service responding, final location of the vehicle and a log of all attempts to contact the owner, indicating dates and times of all negative contacts, if the owner was not notified.)
  - 1. An offense/incident report shall be completed.
  - 2. Officers shall ensure that the impound sheet is filled out and a copy left with the wrecker driver after both the officer and the driver sign the impound sheet.
  - 3. If the owner or operator is present, a completed copy of the impound sheet will be given to the owner or operator. If the owner/operator has left or been removed from the scene, the officer will ensure that the owner/operator receives a copy of the form.
  - 4. The ignition key will be left with the vehicle. All other keys will be removed and given to the owner or operator, or placed in their property if they are arrested.
  - 5. Once E911 Dispatch personnel have notified the police officers in the field of the name of the wrecker service or tow service dispatched, **no other wrecker service will be allowed to tow the vehicle.**
  - 6. Exigent circumstances may occur which necessitate the immediate removal of a



vehicle from traffic, etc., and such situations will be treated on a case by case basis.

- F. In all cases in which a vehicle is to be impounded, the investigating officer shall complete a full property inventory of the vehicle, to include the passenger compartment and all storage compartments. Those inventories shall be conducted to ensure against the careless handling or theft of personal property from all impounded vehicles, to assure the safekeeping of any valuables or dangerous instrumentality's located in such vehicles, to protect officers from potentially dangerous items, to assure the community caretaking function by general protection of the public, and to prevent claims against department personnel for lost, stolen, or damaged property.

1. Closed containers shall be inventoried in ALL cases in which a vehicle is impounded and the contents shall be itemized on the inventory form.
2. Locked containers with a key or mechanism to allow entry without causing damage to the container or any contents shall be inventoried in ALL cases in which a vehicle is impounded. The contents shall be itemized on the impound form.
3. Locked containers in which no key or opening mechanism is available, and which cannot be opened without causing damage to the container shall not be opened, nor shall the contents be itemized for inventory purposes. The officer shall list the item as "one locked container and unknown contents" on the inventory form.
4. If the officer has probable cause to believe that the locked containers hold evidence or fruits of a crime, he/she must obtain a search warrant prior to opening the container. In this instance, the search is no longer for inventory purposes, but shall be based upon the facts and circumstances upon which probable cause is developed.
5. Searches conducted for inventory purposes shall be conducted at the scene, prior to release of the vehicle to the towing

company. In cases where officer safety is a concern, the vehicle may be towed to a safe location prior to inventory, however the investigating officer shall keep the vehicle in his/her sight until a safe location is reached.

6. The officer(s) conducting the inventory shall complete a Espanola Police Department towing and impound form, taking care to note all items of personal property located in the impounded vehicle. He/she shall also make the towing/wrecker driver aware of any pre-existing damage to the vehicle, which can be noted on the impound form.
7. The officer shall be responsible for any decision to store property of excessive value and/or of a dangerous nature separate from the impounded vehicle.

G. *If a wrecker service is unable to respond or fails to respond to a call within 30 minutes of being called, the next wrecker service on the rotation list will be called. The wrecker service unable to respond will be placed at the bottom of the list, and called by the dispatcher so that they may be advised of their "cancelled" status.*

1. An officer or commanding officer may also cancel a wrecker due to; it does not have the proper equipment, the wrecker size is inadequate to safely remove the vehicle that is being towed, the vehicle no longer needs to be towed, owner makes a specific request for another towing service, etc. If the wrecker is cancelled for above reasons, they may be placed in line for next rotation.

#### 50.1.04 VEHICLES TOWED FOR EVIDENTIARY PURPOSES

- A. In those cases that require a vehicle be processed for physical evidence, personnel shall take the necessary steps to process that vehicle at the scene, whenever practical.
- B. When vehicles belonging to victims or crime suspects must be towed, the following procedures apply:
  1. A police hold may be initiated on an impound form authorizing the hold with the

proper copy of the impound boldly marked "HOLD" and signed by the officer and the wrecker driver. Prior to placing a vehicle on hold, the officer is required to obtain approval from a commander or supervisor. If/when the vehicle is released, the original towing company will be contacted, the vehicle will be picked up and taken to the towing company lot for release to the registered owner. The owner shall be responsible for towing fees only.

2. When the impounded vehicle is evidence or must be held for evidentiary examination, the vehicle will be towed to the Department's secured impound lot and secured against unauthorized entry and contamination. An investigations commander will be notified, if necessary. Evidence seals will be affixed to doors, windows, engine and trunk compartments. An evidence tag will be filled out for the impounded vehicle and its keys and shall be turned over to the property custodian.
3. Vehicles held for the above purposes may only be released by a court order or with written authorization from the Office of the District Attorney.
4. Any vehicle having a police hold placed on it by the investigating officer for reasons other than evidence or forfeiture shall be towed to the Espanola Police Department impound lot and the "Hold" status entered into the towing log. The hold must also be authorized by a commanding officer. The Commander must sign the wrecker impound form, along with the officer and the wrecker driver.
5. The gates to the Espanola Police Department impound lot are to be locked at all times. Under no circumstances are they to be left unlocked or open.
6. If the vehicle needs to be released from the "Hold" status due to exigent circumstances, and the officer who authorized the tow and placed the hold cannot be contacted to release the vehicle, the vehicle may be released by a

supervisor in the investigating officer's chain of command.

7. If a vehicle has been reported stolen, and is located by anyone other than the owner, the officer shall:
  - a. Process the vehicle for evidentiary purposes.
  - b. Ascertain if the vehicle is operable.
  - c. Barring exigent circumstances, the owner will be notified so that he/she may call a wrecker of his/her choice, pick up the vehicle personally, or make arrangements for the vehicle's removal. In the event that the owner(s) cannot be located, the officer will follow procedures in calling for a wrecker as per the above guidelines for rotational wrecker call-outs.
  - d. Prepare the necessary paperwork on supplemental forms with all pertinent information.
  - e. Cancel the vehicle from N.C.I.C. and any other agencies which were notified. This shall be done through the E911 Dispatch Center.

#### 50.1.05 NOTIFICATION OF OWNER(S)

- A. After a vehicle is no longer needed for investigatory purposes and processing is complete, the investigating officer will notify the owner or legal representative of its release by:
  1. Personal Contact
    - a. The officer will complete a release form filling out all information authorizing the release after the person requesting the release produces satisfactory proof of ownership. Prior to release, the officer will check the wrecker log to ascertain if there is a hold placed on the vehicle by another officer(s).
  2. Telephone Contact
    - a. The officer will contact the owner concerning the impending release by

telephone, and mail a copy of the release by certified mail.

- B. The departmental member authorizing or releasing any vehicle impounded by this department will complete a supplemental report.

**50.1.06 AUTHORITY TO RELEASE (ON-SITE) A VEHICLE, UPON THE REQUEST OF THE OWNER/DRIVER TO A THIRD PARTY**

- A. An officer may decide to release a vehicle to a third party based upon the following criteria, after having consulted with his/her immediate supervisor who, when possible, shall act as a witness.
- B. The officer may release to a third party after having observed all of the following:
1. Proof that the driver of the vehicle is in legal possession of the vehicle by examination of the vehicle registration, title, vehicle registration inquiry, N.C.I.C. inquiry, etc.
  2. The written consent form shall be completely filled out and signed by the owner/driver in order to transfer custody of the vehicle to a third party, thereby releasing the department and officer(s) from liability for the release of the vehicle.
  3. A signed statement from the third party accepting responsibility for the vehicle.
  4. The release form shall be made part of the report, as well as the name, address, and phone number(s) of the person to whom the vehicle was released.

**50.1.07 ABANDONED VEHICLES ON PRIVATE PROPERTY**

- A. Vehicles abandoned on private property will not be towed unless they are needed for evidentiary purposes involving a criminal offense, or they are being confiscated subject to forfeiture proceedings. All such impoundments will be authorized by a commanding officer.

**50.1.08 TOWING POLICE VEHICLES**

- A. If a police vehicle is wrecked or disabled and it is necessary to tow the vehicle, a supervisor is

to be notified so that arrangements can be made to tow the vehicle. If he/she is unavailable, the next wrecker on the rotation list will be utilized.

**50.1.09 ABANDONED VEHICLES ON PUBLIC/CITY PROPERTY**

- A. Prior to towing any vehicle on public or city property, the following steps are required:

1. The officer/P.S.A. will make a stolen vehicle inquiry giving the communications dispatcher the VIN and license number, and will also attempt to contact the owner.
2. The officer/P.S.A. will determine if the vehicle is violating parking restrictions.
3. The officer/P.S.A. will determine if the vehicle is obstructing traffic, private or public driveway(s), or is a hazard to other motorists.
4. Laws concerning and identification of abandoned vehicles as per State of New Mexico and City of Espanola Municipal Ordinances will be followed prior to having any motor vehicle removed.
5. If the owner cannot be located, and the vehicle is not causing a safety hazard, a registered letter will be sent to the last known owner of the vehicle as verified by a registration check through the New Mexico Department of Motor Vehicles within 48 hours. After waiting a thirty- (30) day period if the vehicle has not been removed, it will then be deemed abandoned and will then be towed (per N.M. State Statute 66-1-4.1, A, 1,2,3, and 4). Once the vehicle is impounded, another registered letter will be sent notifying the owner of the whereabouts of his/her vehicle. Every attempt to contact the owner prior to removal will be made. Once the owner is located, this information will be given to the owner and a supplemental report will be submitted. The registration inquiry and a copy of the registered letter will be retained and become part of the official police report

**50.1.10 MISCELLANEOUS**

Wrecker companies wishing to be placed on the department wrecker rotation log **must** submit a written request to the Chief or Deputy Chief of Police. Only the Chief or Deputy Chief may approve or disapprove these requests. The Chief or Deputy Chief has the authority to remove a towing company from the department wrecker rotation log. The Chief or Deputy Chief shall reserve the right to limit the number of Towing Companies on the rotation log based upon the City of Espanola's population growth. Companies requesting to be placed on the department's wrecker log **must have their storage facility within (15) fifteen miles the city limits of Espanola and must be fenced.**

The regulations as set by the City of Espanola relating to wrecker services within the jurisdictional boundaries of the Espanola Police Department and the City of Espanola with regard to the regulations supervising towing services will be followed when dealing with any wrecker service or tow service within the City of Espanola, as well as any regulations promulgated by the State of New Mexico Public Regulations Commission.

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